IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 27128 of 2003

Between:

B.Rajasekhar, S/o Venkaiah,
R/o 16-11-16/V/15, Moosarambagh, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep.by its Commissioner, Tank Bund, Hyderabad.
2 The Additional Commissioner (Works), The Municipal Corporation of Hyderabad,Tank Bund, Hyderabad.
3 The Executive Engineer - 3 (South Zone), Municipal Corporation of Hyderabad, Sadarmahal, Charminar, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order, or Direction, more particularly one in nature of Writ of Mandamus declaring the No.2310/EE-3/(SZ)MCH/03-04 dated 10-11-2003 as illegal, arbitrary and violative of Principles of Natural Justice and opposed to Art.14 and 19(1)(g) of the Constitution of India and consequently allow the petitioner to participate in tenders and Unit rate works of Respondent-Corporation

Counsel for the Petitioner:MR.V.VISWANATHAM

Counsel for the Respondent No.: MR.G.RAMA RAO

The Court made the following :

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.27128 OF 2003

ORDER:

The petitioner is a class III contractor registered with Municipal Corporation of Hyderabad. By impugned order dated 10.11.2003, the third respondent, purporting to act on the note orders of the Commissioner of Municipal Corporation of Hyderabad, debarred the petitioner from participating in tender and unit rate works. Assailing the same, the present writ petition is filed.

This Court while admitting the writ petition passed interim orders on 09.01.2004 in W.P.M.P.No.34376 of 2003 suspending impugned order for a period of six weeks, which was later extended until further orders. The Corporation and two others have moved this Court by filing W.V.M.P.No.1118 of 2004 along with counter affidavit. It is, however, not denied in the counter affidavit that the impugned order was not preceded by any notice. Though the interlocutory matters are listed, the writ petition was heard finally with the consent of both the counsel.

It is well settled that when a contractor is black listed, the employer has to put the contractor on notice and consider explanation or representation of such contractor. These are very conspicuous by their absence in this writ petition. Therefore, the impugned order is unsustainable. Learned Standing Counsel for Corporation fairly does not dispute the legal position.

The writ petition, for the above reason, is allowed and the impugned order in Proceedings No.2310/EE-3/(SZ) MCH/03-04, dated 10.11.2003 is set aside. Liberty is given to the respondents to issue notice to the petitioner and take appropriate action against the petitioner. There shall be no order as to costs.

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(V.V.S.RAO,J)

07.09.2004.

pln

That Rule Nisi has been made as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the seventh day of September, two thousand and four only.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.
2. The Additional Commissioner (Works), Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.
3. The Executive Engineer –3 (South Zone), Municipal Corporation of Hyderabad, Sadar Mahal, Charminar, Hyderabad.
4. 2 CD copies.

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